

CLYDE W. LUKE
BETTY J. LUKE

IBLA 80-936

Decided March 9, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring lode mining claim abandoned and void. CA 6388.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.1-2, the owner of an unpatented mining claim located on or before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location for such claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. This requirement is mandatory and failure to comply conclusively constitutes an abandonment of the claim by the owner.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Hugh O. Allen, Esq., Sacramento, California, for appellants. 1/

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Clyde W. Luke and Betty J. Luke have appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated August 15, 1980, declaring their Marcia lode mining claim, CA 6388, abandoned and void for failure to file a copy of the notice or certificate of location as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1701 (1976), and the implementing regulation, 43 CFR 3833.1-2(a).

In their statement of reasons for appeal, appellants failed to point out how the decision appealed from is in error other than to allege that they "never intentionally abandoned the claim but were deceived" by the Department by its "failure to inform" them of the law regarding recordation of mining claims.

[1] Section 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976), provides in part that the owner of an unpatented mining claim located prior to October 21, 1976, had to record a copy of the notice or certificate of location with BLM on or before October 22, 1979. See 43 CFR 3833.1-2(a). Appellants' mining claim was located on January 27, 1950. No copy of their notice or certificate of location was filed on or before October 22, 1979. 2/

Failure to comply with the regulation governing recordation of unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a); Edward W. Kramer, 51 IBLA 294 (1980).

[2] Appellants' argument that they were not informed of the law does not change the result in this case. All persons dealing with the Government are presumed to have knowledge of relevant statutes and

1/ Fred H. Delmer of the Sierra Legal Clinic, Placerville, California, also filed a notice of appeal on behalf of the Lukes. He indicated that the Clinic would be filing a statement of reasons for the appeal. It has not been filed.

2/ The case record contains an affidavit dated May 23, 1980, of Herman J. Lyttge, Chief, Branch of Records and Data Management, Bureau of Land Management, California State Office, stating that his review of the records revealed that the Lukes had not filed the necessary documentation for their claim on or before October 22, 1979.

duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

